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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 4
New York, 10-21 August 1992

Proposal submitted by Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland concerning the languages of the International Tribunal for the Law of the Sea

(LOS/PCN/SCN.4/WP.2/Rev.1; LOS/PCN/SCN.4/WP.8 and Add.1 and 2)

(a) The International Tribunal for the Law of the Sea has two official languages: English and French.

(b) The judgements, orders and advisory opinions of the Tribunal are translated, in as short a time as possible, into the other official languages of the United Nations by the Registry.

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LOS/PCN/SCN.4/WP.14
19 August 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 10-21 August 1992

Draft outline

for

REPORT OF THE PREPARATORY COMMISSION CONTAINING RECOMMENDATIONS REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Introductory Note

1. Special Commission 4, on the recommendation of its Bureau, decided at the summer meetings of the tenth session that it would take up as its first item of work:

> issues relating to the draft Report containing recommendations for submission to the Meeting of the States Parties to be convened in accordance with annex VI, article 4 of the United Nations Convention on the Law of the Sea, regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea:
>
> (i) form and content of the draft Report; and
>
> (ii) other issues.

This item had been listed as item (6) of its agenda for the session set out in LOS/PCN/L.101 at page 4. The Special Commission also decided that it would carry out a preliminary overview on the draft final Report as to "form and content".

2. The present working paper takes particular account of the most relevant precedents as to form of presentation, in particular that of the Preparatory Commission of the United Nations. The working paper provides a structural outline which takes into account the decision of the Special Commission that in the preparation of the draft Report:

(a) Working papers that have been reviewed by the Commission would be issued in final form and annexed to the Report for submission to the Meeting of States Parties with the recommendation of the Preparatory Commission; and

(b) Pending issues listed in the Progress Report (LOS/PCN/L.103) would be referred to in the Report as submissions from the Preparatory Commission without a recommendation but rather with a statement as to the status of review of each item by the Preparatory Commission.

The draft outline for the Report as presented herein lists several annexes of working papers and other documents that are to be finalized by the Secretariat on the basis of the decisions taken by the Special Commission for submission to the Meeting of States Parties. A separate list of attachments to this working paper identifies the relevant core documentation of the Special Commission considered essential to providing a faithful record of the work of the Special Commission, its deliberations and its conclusions and decisions which led to the preparation and presentation of the draft outline for the Report.

Draft outline

for

REPORT OF THE PREPARATORY COMMISSION CONTAINING RECOMMENDATIONS REGARDING PRACTICAL ARRANGEMENTS FOR THE ESTABLISHMENT OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

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INTRODUCTION

1. This Report reflects the work of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea in making practical arrangements for the establishment of the International Tribunal for the Law of the Sea. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea which contains the Statute of the Tribunal in annex VI thereto. Resolution I adopted with the Convention by the Third United Nations Conference on the Law of the Sea established the Preparatory Commission and mandated it inter alia to prepare a Report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea for submission to the Meeting of States Parties to be convened in accordance with the Statute of the Tribunal. 1/ The Preparatory Commission established at its first session, besides its Plenary and the General Committee, four Special Commissions. Special Commission 4 was charged with the preparation of the Report containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea. 2/ The Preparatory Commission elected Dr. Gunter Goerner (German Democratic Republic) as Chairman of Special Comission 4 and he served from the first session in 1983 to the eighth session in 1990. 3/ On 25 February 1991 the Preparatory Commission elected Mr. Anton Bouteiko (Ukraine) to replace him. Colombia, Greece, Philippines and Sudan were elected as vice-chairmen of the Special Commission constituting, with its Chairman, the Bureau.
Dr. Theodore Chalkiopoulos (Greece), vice-chairman, acted as Chairman in the absence of the Chairman at the seventh session of the Preparatory Commission held in Kingston, 4/ at the eighth session held in New York 5/ and at the tenth session in Kingston and in New York. 6/

1/ Annex VI, article 4.

2/ See resolution I, para. 10; and LOS/PCN/27, annex.

3/ He served until the accession of the German Democratic Republic to the Federal Republic of Germany.

4/ The seventh session was held in Kingston, Jamaica, from 27 February 1989 to 23 March 1989.

5/ The resumed eighth session was held in New York from 13 to 31 August 1990.

6/ The tenth session was held in Kingston, Jamaica, from 24 February 1992 to 13 March 1992 and the Summer Meeting from 10 to 21 August 1992 in New York.

2. The Special Commission adopted its provisional agenda contained in SCN.4/1984/CRP.1 and Rev.1. 7/ Its mandate was initially elaborated in SCN.4/WP.1. When considering its work programme the Commission first decided to take up the items listed in paragraph 3 of SCN.4/WP.1, with the addition of Relationship Agreements as referred to in Part II of that working paper. The Commission also expressed the need to prepare rules for the Meeting of States Parties and recommendations for the election of members of the Tribunal. It did not consider it appropriate to prepare a comprehensive list of issues and items for its programme of work since additional items may be considered necessary as work progressed. For each session of the Preparatory Commission, the requirements for the programme of work were further elaborated as necessary and priorities established by the Special Commission on the recommendation of its Bureau and the initiative of its Chairman. The method of work was also established and the Commission dealt with the items under its work programme on that basis.

3. The Special Commission prepared the draft outline for the Report of the Preparatory Commission containing recommendations regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea which was the basis for the review of the report and recommendations of the Preparatory Commission to the Meeting of States Parties as contained herein. With the adoption by the Preparatory Commission of the present Report, the final stage in the establishment of the International Tribunal for the Law of the Sea has been commenced with the preparation for the first Meeting of States Parties to the Convention prior to the inauguration of the Tribunal.

CHAPTER I. JUDICIAL PROCEDURE

Section 1. Recommendations Concerning the Draft Rules of the Tribunal

For the purpose of preparing for the International Tribunal to perform its judicial functions at the earliest possible time after entry into force of the Convention, it is desirable that the Meeting of States Parties facilitates the adoption of the rules of the Tribunal.

7/ References to documents of Special Commission 4 are abbreviated throughout this paper for convenience. It should be noted that they all require the prefix LOS/PCN for complete reference purposes. The documents of Special Commission 4 referred to herein are attached hereto and more fully identified in the List of Attachments.

Therefore

THE PREPARATORY COMMISSION recommends that:

the Final Draft Rules of the Tribunal approved by the Commission and its Special Commission 4 contained in annex 1 should provide the basis for the adoption by the Tribunal of its rules of procedure;

The Special Commission first considered the requirements for the procedural rules of the Tribunal and examined the items listed in SCN.4/WP.1. Account was taken of SCN.4/1984/CRP.2-5 in this connection. Thereafter, the Draft Rules of the Tribunal (SCN.4/WP.2); and the Supplement to the Draft Rules of the Tribunal - on the Prompt Release of Vessels and Crews (SCN.4/WP.2/Add.1): Working Papers prepared by the Secretariat, were examined by the Special Commission, taking into account the table of concurrence of the Draft Rules of the Tribunal (SCN.4/WP.3) and the draft texts proposed for specific provisions (SCN.4/1985/CRP.6, SCN.4/1985/CRP.7 to 10 and 12 to 14, SCN.4/1986/CRP.15 to 18) as reflected in the Chairman's summaries of discussions (SCN.4/L.2 and Add.1 and Add.1/Corr.1, L.3 and Add.1, L.4 and Add.1, L.5 and Add.1).

Thereafter the Special Commission considered the revision of the Draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) prepared by the Secretariat, taking into account the draft texts proposed for specific provisions (SCN.4/1986/CRP.20, SCN.4/1987/CRP.22, SCN.4/1988/23 and Rev.1, 25, 28 to 30, SCN.4/1989/32 and 37), as reflected in the Chairman's summaries of discussions (SCN.4/L.7 and Add.1, L.9/Add.1, L.10 and Add.1 and Add.1/Corr.1). The Secretariat has formulated the Final Draft Rules of the Tribunal, as contained in annex 1 on the basis of the decision of the Special Commission (LOS/PCN/L.53, para. 9).

Section 2. Composition of the Tribunal and its Chambers

In connection with the geographical distribution and the representation of the principal legal systems in the composition of the Tribunal and its chambers, the Special Commission expressed the view that firm and detailed rules should not be established by the Preparatory Commission. The deliberations of the Special Commission in this connection are reflected in Chapter VI, section 2 below.

Section 3. Official Working Languages

The Special Commission exchanged views on the official languages and those in which its pleadings and judgements would be issued as reflected in the Chairman's summary of discussions (SCN.4/L.14, pages 10 and 11); Chairman's Statement to the Plenary (LOS/PCN/L.86, paras. 6-8); and Proposals submitted by delegations (SCN.4/WP.12 and 13). Chapter IV, section 1 below also deals with this question.

Section 4. Harmonization of Jurisprudence

The need to provide a means to achieve harmonization of the jurisprudence of the Tribunal and its chambers was considered. A proposal was made as to how this can be achieved and the deliberations of the Preparatory Commission are reflected in the Chairman's summary of discusssions (SCN.4/L.3, paras. 99-100).

Section 5. Internal Judicial Practice

The Final Draft Rules of the Tribunal (annex 1 hereto) recognize the requirement for a resolution to be formulated by the Tribunal on its internal judicial practice in a manner consistent with the practice of the International Court of Justice. The deliberations of the Special Commission in this connection are reflected in the Chairman's summary of discussions (SCN.4/L.7, paras. 27-30).

Section 6. Access by States not Parties to the Convention

A resolution or other means setting out the terms for access to the Tribunal by States not parties to the Convention would have to be formulated. Such provision was made in connection with the International Court of Justice regarding the participation of States Parties to the Statute of the Court which are not States Members of the United Nations as provided in General Assembly resolution 91 (I) of 11 December 1946.

CHAPTER II. INTERNATIONAL AGREEMENTS

Section 1. Recommendations Concerning the Draft Headquarters Agreement Between the International Tribunal for the Law of the Sea and the Federal Republic of Germany

For the purpose of preparing for the International Tribunal to function at the seat of the Tribunal in Germany, it is desirable that the Meeting of States Parties facilitates the Tribunal and the host country entering into a headquarters agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

the Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, approved by the Commission and its Special Commission 4 contained in annex 2 should provide the basis for negotiating and entering into such an agreement.

The Special Commission first discussed the requirements for a headquarters agreement (SCN.4/WP.1, para. 7). It also discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work. These discussions took into account the items listed in SCN.4/WP.1, paras. 3 and 5-7. Account was also taken of SCN.4/WP.4, which identifies issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9). Thereafter, a draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5, Parts I and II) prepared by the Secretariat at the request by the Special Commission (LOS/PCN/L.47) was deliberated on as reflected in the Chairman's summary of discussions (SCN.4/L.11 and Add.1).

A Revised draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany (SCN.4/WP.5/Rev.1 and Corr.1) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions and the suggestions of a drafting nature and providing compromise texts on issues where agreement was not reached was considered and approved by the Special Commission in accordance with the deliberations reflected in the Chairman's summary of discussions (SCN.4/L.___). 8/

The Secretariat has formulated the Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany, as contained in annex 2 on the basis of the decision of the Special Commission (LOS/PCN/L.101, para 4; SCN.4/1992/CRP.45) and harmonized to the extent possible with the Final Draft Revised Protocol on the Privileges and Immunities of the Tribunal.

Section 2. Recommendations Concerning the Draft Protocol on the Privileges and Immunities of the Tribunal

For the purpose of providing the requisite privileges and immunities for the effective functioning of the International Tribunal, it is desirable that the Meeting of States Parties adopts an international protocol that may be adhered to by all States.

Therefore

THE PREPARATORY COMMISSION recommends:

the Final Draft Protocol on the Privileges and Immunities of the International Tribunal for the Law of the Sea, approved by the Commission and its Special Commission 4 contained in annex 3 for adoption and adherence by all States.

8/ The Chairman's summary of discussions is to be issued.

The Commission discussed the question of privileges, immunities and facilities in relation to the Tribunal and its work, taking into account the items listed in SCN.4/WP.1, paras. 3 and 5 to 7. Account was also taken of SCN.4/WP.4, which identified issues for consideration, and also SCN.4/1985/CRP.8 and 9. The summary of this review is contained in the Chairman's summary of discussions (SCN.4/L.9).

Thereafter, a Draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6) was prepared by the Secretariat at the request of the Commission (LOS/PCN/L.53, para. 19 (c)). This working paper was reviewed article by article by the Special Commission as reflected in the Chairman's summary of discussions (SCN.4/L.13 and Add.1).

Subsequently, a Revised Draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6/Rev.1 and Corr.1 and 2) prepared by the Secretariat, taking into account the deliberations in the Special Commission, the draft texts proposed for specific provisions (SCN.4/1988/CRP.24, 26 and 27; SCN.4/1989/CRP.31 and 33 to 35), and the suggestions of a drafting nature; and providing compromise texts on issues where agreement was not reached (LOS/PCN/L.91, para. 10), was considered and approved by the Special Commission in accordance with the deliberations reflected in the Chairman's summary of discussions (SCN.4/L.___). 9/

The Secretariat has formulated the Final Draft Protocol on Privileges and Immunities of the International Tribunal, as contained in annex 3 on the basis of the decision of the Special Commission (LOS/PCN/L.101, para. 5) taking into account the deliberations in the Special Commission and the draft texts proposed for specific provisions (SCN.4/1991/CRP.41-44 and 46) and harmonized to the extent possible the text with the Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany.

Section 3. Use of the United Nations Laissez-passer by the Tribunal

The use of the United Nations Laissez-passer by the Tribunal and its officials was considered by the Special Commission as reflected in the Chairman's summary of discussions (SCN.4/L.11/Add.1) (and SCN.4/L.___). 9/ The relevant issue may be dealt with in the context of Chapter III, section 1 below.

9/ Chairman's summary of discussions is to be issued.

CHAPTER III. RELATIONSHIP ARRANGEMENTS

Section 1. Recommendations Concerning Relationship Arrangements Between the United Nations and the International Tribunal for the Law of the Sea

In order to achieve greater efficiency and to more effectively fulfil the objectives of the International Tribunal and the United Nations, it is desirable that the Meeting of States Parties facilitates the Tribunal and the United Nations entering into a relationship agreement.

Therefore

THE PREPARATORY COMMISSION recommends that:

> the Final Draft Relationship Agreement Between the United Nations and the International Tribunal for the Law of the Sea, formulated by the Commission and its Special Commission 4 contained in annex 4, should provide the basis for negotiating and entering into such an agreement.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8-12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)) were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The draft relationship arrangement between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9 and Add.1), prepared by the Secretariat pursuant to the request of the Special Commission (LOS/PCN/L.76, para. 12 (b)) was reviewed by the Special Commission as reflected in the Chairman's summary of discussions (SCN.4/L.15). The Secretariat has formulated the Final Draft Relationship Agreement Between the United Nations and the International Tribunal for the Law of the Sea as contained in annex 4 on the basis of the decision of the Special Commission (LOS/PCN/L.___) 10/ with due consideration for the views expressed in the Commission regarding the need for maximum economy in establishing the Tribunal and its functioning while maintaining the highest possible level of efficiency (LOS/PCN/L.86, para. 5).

10/ Chairman's Statement to the Plenary (to be issued) assumed that the relevant decision will be taken.

Section 2. Relationship Arrangement Between the International Tribunal for the Law of the Sea and the International Seabed Authority

For the purpose of addressing the role of the Tribunal in relation to the activities of the International Seabed Authority, it is desirable that an appropriate relationship arrangement be entered into between them.

Therefore

THE PREPARATORY COMMISSION submits:

a Report on the deliberations and suggestions of the Special Commission concerning the Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority, prepared by the Secretariat and contained in annex 5 as a basis for the deliberations of the Meeting of States Parties.

The Commission first discussed the issues (SCN.4/WP.1, paras. 8- 12). The relevant issues contained in the working paper titled "Issues concerning relationship agreements between the International Tribunal for the Law of the Sea and other international organizations" (SCN.4/WP.7) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.61, para. 19 (c)) were first discussed, taking into account the issues listed in SCN.4/1989/CRP.36.

The working paper on Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority (SCN.4/WP.10) prepared by the Secretariat was reviewed by the Special Commission and the Chairman's summary of discussions (SCN.4/L.___) 11/ reflects the deliberations and suggestions of the Commission.

Section 3. Supplementary Arrangements Between the International Tribunal for the Law of the Sea and the International Court of Justice

Supplementary arrangements between the Tribunal and the International Court of Justice were not formulated by the Special Commission. Consequent upon the communication from the Registrar of the International Court of Justice, the Special Commission decided that it would not consider such relationship arrangements and that it would be left to the Tribunal and Court to determine on an ad hoc basis and as appropriate, the relationship arrangements that may be required. The deliberations of the Special Commission are reflected in the Chairman's Statement to the Plenary (LOS/PCN/L.101, para. 6).

11/ The Chairman's Summary of Discussions is to be issued.

CHAPTER IV. ADMINISTRATIVE ARRANGEMENTS

Section 1. Recommendations Concerning Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea and Recommendations Concerning the Scheme for the Initial Phasing-in of the Establishment of the International Tribunal for the Law of the Sea

The degree to which the Tribunal can fulfil its purposes will be determined by its institutional structure, the effectiveness of its administration including budgetary and personnel matters, and the efficiency of its services.

Therefore

THE PREPARATORY COMMISSION recommends that:

the Final Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea, prepared by the Secretariat contained in annex 6 should provide the basis for the deliberations and determinations of the Meeting of States Parties.

The working paper: Administrative arrangements, structure and financial implications of the International Tribunal for the Law of the Sea (SCN.4/WP.8) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12. (a)) was based on the organizational structure of the Tribunal as set out in the Convention and taking into account the structure of existing international tribunals and courts and their experiences based on the use of two working languages, with the pleadings and judgements to be issued in all six working languages of the United Nations after completion of each application, case or advisory opinion. The Addendum: Supplementary cost estimates reflecting alternatives as to official working languages (SCN.4/WP.8/Add.1 and Corr.1); and the further Addendum: Scheme to phase-in the establishment of the International Tribunal for the Law of the Sea (SCN.4/WP.8/Add.2 and Corr.1) were also presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.76, para. 12 (a)). While no conclusions were reached, the deliberations of the Special Commission were reflected in the Chairman's summary of discussions (SCN.4/L.14 and SCN.4/L.___ 12/ and LOS/PCN/L.81, paras. 5-9).

12/ To be issued.

The Secretariat has formulated the Final Draft Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea as contained in annex 6 on the basis of the decision of the Special Commission (LOS/PCN/L.91, para. 8) containing relevant elements relating to the scheme for phasing-in the establishment of the Tribunal and the alternative schemes concerning the implications of the number of official languages and working languages.

As regards languages of the Tribunal, the Commission conducted an exchange of views as reflected in the Chairman's Statement to the Plenary (LOS/PCN/L.86, paras. 6-8) and informal consultations were conducted among interested delegations on this question. Subsequently proposals were submitted by the delegation of Cuba on behalf of the Group of Latin American and Caribbean Countries (SCN.4/WP.12) and by the delegations of Austria, Belgium, Canada, Côte d'Ivoire, France, Greece, India, Poland, Senegal and Switzerland (SCN.4/WP.13).

Section 2. Recommendations Concerning the Draft Financial Rules and Staff Regulations

As regards the principles to govern the financial rules of the Tribunal and its staff regulations, it was the understanding of the Special Commission that the Secretariat would prepare the requisite documentation to be submitted to the Meeting of States Parties for its consideration (LOS/PCN/L.81, paras. 15-17).

Section 3. Recommendations Concerning the Initial Financing and Budget of the International Tribunal for the Law of the Sea

For the early functioning of the Tribunal and in order to ensure the requisite financing, it is desirable that the Meeting of States Parties determines an appropriate arrangement.

Therefore

THE PREPARATORY COMMISSION submits:

a Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea prepared by the Secretariat and contained in annex 7, to provide a basis for the deliberations and determination of the Meeting of States Parties.

The working paper (SCN.4/WP.11) presented by the Secretariat at the request of the Special Commission (LOS/PCN/L.91) was based on existing precedents and experiences in establishing international organizations. The Commission reviewed the working paper as reflected in the Chairman's summary of discussions (SCN.4/L.___). 11/ The Secretariat has formulated the Report

with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea, contained in annex 7, based on the basis of the deliberations of the Special Commission and containing relevent elements relating to the scheme for phasing-in the Tribunal, as decided by the Special Commission (LOS/PCN/L.___). 11/

CHAPTER V. THE PERMANENT HEADQUARTERS OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA

Section 1. Recommendations Concerning the Location and Site for the Headquarters of the International Tribunal for the Law of the Sea

For the purpose of preparing for the International Tribunal for the Law of the Sea to establish its permanent headquarters at the site offered by the host country, in an appropriate environment it is desirable that the Meeting of States Parties endorses the arrangements for the same.

Therefore

THE PREPARATORY COMMISSION having taken note that:

the host country, Germany, has notified the Commission that the location of the permanent headquarters of the Tribunal would be at the site offered in the Free and Hanseatic City of Hamburg, situated in the Nienstedten suburb of Hamburg-Altona (more fully described in SCN.4/L.8) conveys the same to the Meeting of States Parties.

Section 2. Recommendations Concerning the Building Requirements and Facilities of the International Tribunal for the Law of the Sea Provided by the Host Country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities provided by the host country for the most effective discharge of the functions of the Tribunal, it is desirable that the Meeting of States Parties approves the appropriate arrangements for the same.

Therefore

THE PREPARATORY COMMISSION recommends that:

the Meeting of States Parties takes note of the planning and arrangements made in this connection by the host country including the specifications provided in SCN.4/L.16 and Add.1.

The Preparatory Commission and Special Commission 4 had received reports from the host country on the designation of the site in Hamburg and the progress made in evaluating requirements and planning for the building and equipment needs of the Tribunal including indications as to site, building, equipment and facilities being provided to the Tribunal by the host country. The relevant documents and reports reviewed and taken note of in this connection are:

(a) Preliminary information on the establishment of facilities for international courts and tribunals (SCN.4/1986/CRP.19 dated 8 April 1986);

(b) Brief progress report on the preparations for the housing of the International Tribunal for the Law of the Sea in Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.6 dated 2 September 1986);

(c) Letter dated 9 February 1987 from the Chairman of the Delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/80 dated 12 March 1987);

(d) Second report on practical arrangements for the installation of the International Tribunal for the Law of the Sea at Hamburg - submitted by the delegation of the Federal Republic of Germany (SCN.4/L.8 dated 13 March 1987);

(e) Report of the Chairman on the visit by the Bureau of Special Commission 4 and officials of the United Nations Secretariat to the Federal Republic of Germany 24-28 August 1987 (SCN.4/L.12 dated 21 March 1988);

(f) Letter dated 15 March 1989 from the Chairman of the delegation of the Federal Republic of Germany addressed to the Special Representative of the Secretary-General for the Law of the Sea (LOS/PCN/106 dated 17 March 1989);

(g) Report on the progress of work dated 13 March 1991 concerning building requirements and facilities for the International Tribunal for the Law of the Sea in Hamburg - Statement of the Parliamentary State-Secretary H.E. Mr. Rainer Funke, Ministry of Justice of the Federal Republic of Germany (SCN.4/1991/CRP.40 dated 15 March 1991).

(h) Report of the delegation of the Federal Republic of Germany on the building requirements and facilities for the International Tribunal on the Law of the Sea in Hamburg (SCN.4/L.16 dated 9 March 1992).

Section 3. Recommendations Concerning the Requirements and Facilities Necessary to Supplement those Provided by the Host Country

For the purpose of preparing for the permanent headquarters of the International Tribunal for the Law of the Sea with the necessary facilities in addition to those provided by the host country, it is desirable that the Meeting of States Parties makes appropriate arrangements for the same.

Therefore

THE PREPARATORY COMMISSION recommends that:

the Meeting of States Parties in addition to taking note of the planning and arrangements made in this connection by the host country evaluates the needs and determines the necessary arrangements to supplement those provided by the host country.

The Preparatory Commission and Special Commission 4 received reports from the host country specifying the progress made in evaluating requirements and planning for the building and providing equipment needs of the Tribunal including facilities and furnishings to be provided by it. The relevant documents and reports taken note of in this connection are identified in section 2 above. While these reports and the information provided do not contain precise description as to furniture and equipment, the objective of the host country is to hand over a building in a state that is ready for use. This would include the equipment for heating, lighting, telephones, telefax, interpreters' booths, sanitary and electronic installations and ventilation equipment for special rooms. Storage, filing and cloakroom facilities in the relevant offices and basic furniture such as desks, filing equipment, trolleys, reception tables, soft furnishings, chairs, furniture for sittings and meeting rooms, archive and library shelving and equipment for the restaurant area are contemplated as coming within the furnished facility to be provided. It would not include such items as typewriters, copy machines and reading lights as well as special furniture, e.g. safes and private furnishing for the Caretaker's flat. The Meeting of States Parties would have to evaluate such items and the office and data processing equipment and other operational accessories to be provided for.

CHAPTER VI. FIRST MEETING OF STATES PARTIES

Section 1. Provisional Agenda and Rules of Procedure for the Meeting of States Parties

For the purpose of constituting the International Tribunal early to perform its central role in the settlement of disputes relating to the law of the sea following the entry into force of the Convention, it is desirable that the relevant decisions for the functioning of the Meeting of States Parties be taken and that it proceeds with the election of the members of the Tribunal.

Therefore

THE PREPARATORY COMMISSION submits:

1. the Provisional Agenda for the Meeting of States Parties prepared by the Secretariat and contained in annex 8;

2. the Provisional Rules of Procedure for the Meeting of States Parties prepared by the Secretariat 13/ and contained in annex 9. It is understood that the Provisional Rules may be adopted for the conduct of its business and that they would be examined in due course with a view to the adoption of permanent Rules of Procedure for subsequent Meetings of States Parties.

Section 2. Election of the Members of the Tribunal

In view of the requirement of the Convention that the first election of the members of the Tribunal shall be held within six months of the date of entry into force of this Convention, it is essential that the election should take place during the first Meeting of States Parties. The Secretary-General of the United Nations whose function it is, under article 4 of the Statute of the Tribunal, would issue the invitations to States Parties for the nomination of candidates for election as members of the Tribunal at least three months before the date of election, would prepare a list of all persons thus nominated to be submitted to States Parties within the time prescribed, and would communicate the same to the Meeting of States Parties.

In connection with the geographical distribution and the representation of the principal legal systems among the members of the Tribunal in its composition and in the composition of its Chambers, the Preparatory Commission expressed the view that firm and detailed rules should not be established by it. However, the principles to be applied in making such determinations would be needed. The Preparatory Commission considered it useful for relevant proposals and recommendations to be made for consideration by the Meeting of States Parties 14/ and the Secretariat was, therefore, requested to draw up a Comparative Table regarding the alternatives for distribution of the six additional seats after fulfilling the minimum geographical representation requirement.

Therefore

THE PREPARATORY COMMISSION submits for consideration:

a Comparative Table providing alternatives for the distribution of the six additional seats among members of the Tribunal after fulfilling the minimum geographic representation requirement, prepared by the Secretariat and contained in annex 10.

13/ The Chairman's Statement to the Plenary (LOS/PCN/L.81, paras. 16 and 17).

14/ Refer SCN.4/L.1.

LIST OF ANNEXES

Annex 1: Final Draft Rules of the Tribunal. (Prepared by the Secretariat as a revision of the Revised Draft Rules of the Tribunal (SCN.4/WP.2/Rev.1, Parts I and II) on the basis of the conclusions of the Special Commission.)

Annex 2: Final Draft Headquarters Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany. (Prepared by the Secretariat as a revision of the Revised Draft Headquarters Agreement (SCN.4/WP.5/Rev.1 and Corr.1) on the basis of the conclusions of the Special Commission.)

Annex 3: Final Draft Protocol on the Privileges and Immunities of the International Tribunal. (Prepared by the Secretariat as a revision of the Draft Protocol on the Privileges and Immunities of the International Tribunal (SCN.4/WP.6) on the basis of the conclusions of the Special Commission.)

Annex 4: Final Draft Relationship Agreement Between the United Nations and the International Tribunal for the Law of the Sea. (Prepared by the Secretariat as a revision of the Draft Relationship Arrangement Between the United Nations and the International Tribunal for the Law of the Sea (SCN.4/WP.9) on the basis of the conclusions of the Special Commission.)

Annex 5: Report on the deliberations and suggestions of the Special Commission concerning the Principles governing relationship arrangements between the International Tribunal and the International Seabed Authority. (Prepared by the Secretariat.)

Annex 6: Final Working Paper on Administrative Arrangements, Structure and Financial Implications of the International Tribunal for the Law of the Sea. (Prepared by the Secretariat.)

Annex 7: Report with recommendations concerning the initial financing and budget of the International Tribunal for the Law of the Sea. (Prepared by the Secretariat.)

Annex 8: Provisional Agenda for the First Meeting of States Parties to the Convention convened in accordance with annex VI, article 4 of the Convention. (Prepared by the Secretariat.)

Annex 9: Provisional Rules of Procedure for the Meeting of States Parties (see LOS/PCN/L.81, paras. 15 and 17). (Prepared by the Secretariat.)

Annex 10: Comparable Table of Alternatives for the Distribution of the Additional Seats Among Members of the Tribunal after fulfilling the minimum geographic representation requirement. (Prepared by the Secretariat.)

LIST OF ATTACHMENTS

(ALL SCN4 DOCUMENTS, COMPRISING WORKING PAPERS, PROPOSALS, CONFERENCE ROOM PAPERS, ETC. WOULD BE LISTED HERE AND ATTACHED TO THE FINAL DOCUMENT)